

people for better tv •

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December 18, 2000

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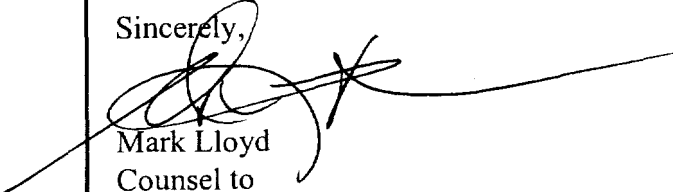
Ms. Wanda Hardy
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Mass Media Bureau
Policy and Rules Division
Federal Communications Commission
445 Twelfth Street, S.W., 2-C221
Washington, D.C. 20554

Re: Notice of Proposed Rulemaking, In the Matter of Standardized and
Enhanced Disclosure Requirements for Television Broadcast
Licensee Public Interest Obligations, MM Docket No. 00-168/

Dear Ms. Hardy,

Please find attached a disk copy of the Comments of People for Better TV on the above referenced proceeding. The disk contains the body of People for Better TV comments, entitled "PBTv Comments Disclosure NPRM fin r3.wp"; and a title page and summary, entitled "PBTv NPRM Disclosure Comments Title and Summary finr3.wp." All appendices have been submitted in paper to the appropriate office.

Sincerely,


Mark Lloyd
Counsel to
People for Better TV

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
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Television Broadcast Licensee)
Public Interest Obligations)

COMMENTS
of
PEOPLE FOR BETTER TV

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SUMMARY

People for Better TV, a national grassroots organization representing a broad-based coalition of organizations and individual members throughout the country, urges the Commission to adopt rules clarifying the public interest obligations of digital broadcasters. In these comments, and our earlier submissions, we have presented the views of individuals across the nation who are concerned that broadcasters are not meeting the needs of their community. As a small, but necessary first step, People for Better TV maintains that the Commission should adopt standardized forms for both analog and digital broadcasters to disclose their public interest efforts to their viewers. These forms will enable viewers and the Commission to evaluate broadcasters' service to their communities.

These public interest disclosure forms should list broadcasters' efforts to determine community interests and the public interest programming that serves local needs. Broadcasters should be required to list under relevant categories including local public affairs, local newscasts, PSA's, the names of the relevant programs and the time, date and duration of their airing. Broadcasters should list programming designed to serve under-served viewers, and indicate the demographics of their community and explain how they met the programming needs of each segment of their viewership. The disclosure forms should list programming which is accessible to those who speak languages other than English, and that which is accessible to disabled viewers by closed-captioning and video description. Regarding digital broadcasters, the forms should fully describe the service, such as the hours of HDTV and standard digital service, multi-casting, and whether they provide any ancillary services, such as pay-per-view programming or datacasting. In addition, they should certify and describe their compliance with federal consumer protection guidelines. The forms should not include broadcasters non-programming community service efforts because these activities are more relevant to the broadcasters' role as corporate citizens than to their obligations as local licensees. Broadcasters should complete the public interest disclosure forms on a quarterly basis.

It would make little sense to improve the form without ensuring the public has better access to the disclosed information. The forms should be included in the stations' public files and posted on the websites operated by the station and/or the local state broadcasting association. They should be posted on the FCC's website and considered by the FCC during license renewal review. Finally, to make these forms most useful to viewers, the broadcasters should publicize their availability through on-air announcements and advertisements in programming guides. These notices should be made accessible to disabled viewers as well. For the public interest disclosure forms to serve their desired function of educating viewers and the Commission about broadcasters' efforts, the FCC must insist that broadcasters inform the public about their existence and make them accessible to all members of the community.

In addition, we call on the Commission to clarify that digital broadcasters have an obligation to determine community needs, and to report those efforts to the public. All disclosure information should be considered at license renewal time.

Finally, while we commend the Commission for initiating this proceeding on the disclosure obligations of digital broadcasters, we repeat our call for a rulemaking proceeding to establish a minimum level of public interest programming to serve local needs and interests. In the absence of such a determination we will not have service responsive to community needs, what we call better tv, but merely better reports demonstrating the lack of public interest service.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
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Standardized and Enhanced)	
Disclosure Requirements for)	MM Docket No. 00-168
Television Broadcast Licensee)	
Public Interest Obligations)	

**COMMENTS
of
PEOPLE FOR BETTER TV**

People for Better TV hereby submits comments in response to the Federal Communications Commission's ("Commission" or "FCC") Notice of Proposed Rulemaking, In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Docket No. 00-168 (rel. Oct. 5, 2000) ("Notice" or "NPRM"). People for Better TV is a national broad-based coalition established in 1998 to ensure that television broadcasters are responsive to local community needs. The steering committee of People for Better TV includes the following organizations: Children NOW, Civil Rights Forum on Communications Policy, Communications Workers of America, Consumer Federation of America, League of United Latin American Citizens, National Association of the Deaf, National Organization for Women, National Urban League, Project on Media Ownership and the U.S. Catholic Conference.¹

¹A current list of member organizations is included at Appendix A.

I. INTRODUCTION

For the past two years, the members of People for Better TV have been urging the Commission to clarify the public interest obligations of digital broadcasters. People for Better TV commends the Commission on its proposed rules regarding disclosure. We believe that requiring broadcasters to better inform their local communities and the Commission is the basic foundation for any regulation of the broadcast industry.

Still, People for Better TV asserts that these proposed rules are very small steps, and that further immediate action is needed. People for Better TV continues to urge the Commission to initiate proceedings to: 1) clearly define the broadcasters' program obligations in the digital age; and 2) take appropriate steps to prevent consumer abuse by digital broadcasters. To this end, we would like to use this opportunity to formally put on the record the thousands of notes and petitions delivered to Chairman William Kennard by our members on October 5, 2000, asking that:

The FCC should make sure my community gets something back for this giveaway: better service to children and families, programs and PSAs which actually address the diverse needs of my area, and protection for all consumers including those who have difficulty hearing and seeing.

The Commission should view these letters as an urgent call to action from local leaders across the country.

II. THE COMMISSION SHOULD CLARIFY DISCLOSURE OBLIGATIONS FOR ALL BROADCASTERS.

In our Comments to the Commission's Notice of Inquiry, In the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360 (Dec. 20,

1999) ("NOI Comments"), People for Better TV provided letters and comments from viewers across the country documenting broadcasters' failures to serve their communities of license. These letters are reinforced by more recent experiences of People for Better TV members. As Helen Greico reports on a recent conversation with an employee at KTXL-TV in Sacramento,

I called KTXL to ask whether they had any local public affairs programs. I had a short and difficult conversation with Eylse Dietrick, who told me, "stations are no longer obligated to serve the public interest." I was so stunned I asked her to confirm what she said and I wrote it down immediately. Is this what we've come to?²

The attached Comments of the United States Catholic Conference (USCC) also demonstrate that broadcasters' actions actually serve to chill citizen reporting to the FCC regarding whether federal licensees were satisfying the legal requirements to serve the public interest. USCC communications directors stated they feared that if they were identified in those Comments, television licensees would retaliate by refusing to respond to requests that licensees meet community religious needs. Therefore, at their request, their names and the names of their religious employers, and the call signs and community of license of the television licensees were withheld. Similarly, Sr. Mary Parks, Secretary for Communications for the Diocese of Altoona-Johnstown, who testified on October 16, 2000 to the Commission at its *en banc* hearing on the public interest obligations of TV broadcast licenses (testimony attached), expressed similar concerns that her testimony would result in retaliation. In fact, Sr. Mary was questioned about the content of her testimony by a local broadcaster on the Friday before the hearing was held (*and before the witness list was publicly released!*).³ In addition, the Southeast Michigan

² See Grieco/Wyman Letter, Appendix-B1.

³ See USCC Comments, Appendix C.

Coalition of People for Better TV writes:

[S]hortly after Reverend Singleton began writing letters to stations and to the FCC, a weekly local public affairs program that had been produced by his organization, the Metropolitan Christian Council, and carried on a local broadcast station for 22 years was canceled with no notice....groups have told us that they cannot publicly support our campaign for fear of retaliation by the broadcasters.⁴

People for Better TV requests a clear statement from the Commission against this sort of activity.

Requiring from broadcasters a clear disclosure of their public interest-oriented activities is a necessary component of ensuring service to their communities. However, until the Commission promulgates rules defining how broadcasters must fulfil their public interest obligations, the standardized disclosure of licensees' actions may simply demonstrate that too many broadcasters think they no longer have to serve the public interest.

A. The Commission Should Adopt a Simple Standardized Disclosure Form for Analog and Digital Television Broadcasters Immediately.

As People for Better TV noted in its comments to the NOI, after a review of the public files by members across the country, "the most consistent finding is the lack of consistency." NOI Comments at 30. This has not changed. We conclude that many stations remain confused about what they should put in their public files. We encourage the Commission to clarify what belongs in the public file and by when, and to begin to enforce those rules with significant fines. For example, at WLS-TV in Chicago, "files from children's programming were not available.

⁴

See Southeast Michigan PBTv Chapter Letter, Appendix-B5.

She (Scharleen Kirk, the building assistant) did not know if they had a file for that.”⁵ Regarding that same station, another researcher noted that “the license, applications and related materials, citizen agreements, contour maps, ownership records, list of contracts required to be filed with the FCC, employment records, and copies of the FCC manual” were missing from the public file.⁶

We also repeat the arguments made in response to the NOI that the Commission should establish clear parameters for when letters should be placed in the public file. Letters from our members sent to stations were rarely in the public files after several weeks had passed. For example, in checking files on December 8, 2000 at KTTV, Channel 11 in Los Angeles, the researcher found files with information no more recent than August 2000.⁷ When stations place viewer complaints in the public files months after they receive them, there is no way for other members of the community to check to see whether others share their concern about recent station activity. Outdated files clearly negate any rationale for keeping viewer comments in the public files.

In light of our experiences, we commend the Commission on taking a first step in clarifying a licensee’s disclosure obligation by proposing to simplify and standardize the disclosure report, with the observations and suggested amendments below. Disclosing public interest service should not be viewed as an obligation limited to the digital age, but as a foundational requirement for all federal licensees entrusted to operate in the public interest.

⁵ See Karla Paloma letter, Appendix-B2.

⁶ See Kleis Letter, Appendix - B2.

⁷ See Grieco/Wyman Letter, Appendix - B1.

1. Local Communities Would Benefit if the Issues/Programs Reports were Replaced by a Standard Disclosure Form.

As we noted in our NOI Comments, Helen Grieco, President of California NOW found the issues/programs lists uninformative. She wrote, “Not only are these lists so generic as to be unhelpful, it’s clear that they don’t change from quarter to quarter (quite unlike the challenges in our diverse community.)” NOI Comments at Appendix D-5b. One researcher in Chicago noted, “the format of the Quarterly Reports on public interest programming made it difficult to quickly ascertain what community leaders have been involved and what community issues have been covered in these reports.”⁸ These experiences demonstrate the need to eliminate the Issues/Programs list and replace it with a simplified public interest disclosure form. People for Better TV supports the immediate adoption of a new standardized form regarding public interest programming for analog and digital licensees. Such a form will enhance broadcaster accountability by providing the additional incentive of public oversight regarding their public interest obligations.

2. The Advisory Committee’s Disclosure Form Should be Modified.

People for Better TV supports the Commission’s suggestion that the public interest disclosure form include categories of programming. Such a format will be easy for viewers to read and comprehend. Indeed, People for Better TV urges the Commission to adopt categories similar to those proposed by the Advisory Committee,⁹ i.e., local and national news programming, local and national public affairs programming, programming that meets the needs

⁸ See Levin Letter, Appendix - B2.

⁹ See the Public Interest Programming and Community Service Certification Form, *Charting the Digital Broadcasting Future, Final Report of the Advisory Committee on Public Interest Obligations of Digital Broadcasters*, Appendix A, 104-105 (1998).

of under-served communities, programming that contributes to political discourse, PSA's, and a catch-all category that includes other local programming not otherwise addressed in the form.

- a. **Rather Than Representative Samples, All Relevant Programming Should be Included in the Disclosure Form.**

People for Better TV does not support the wholesale adoption of the Advisory Committee's proposed form. People for Better TV believes that rather than allowing broadcasters to compile representative samples as the Advisory Committee's proposed form requires, the Commission should demand that broadcasters list all relevant programming that fits within the categories. The lists should include the name of the program, the date and time aired, its duration, and a brief narrative description. This information can be easily obtained by the broadcasters from their programming logs.

Broadcasters must be required to present complete programming information for several reasons. First, viewers need to be able to assess whether the programming fits within the specified groups, and ensure that the same programs are not being listed under multiple categories. In addition, viewers will want to know that programs are being aired during normal viewing hours rather than during pre-dawn time slots. Third, People for Better TV fears that permitting broadcasters to list only a representative sample may present a skewed picture of the broadcasters' programming. For example, the broadcaster may list programs aired in one particular week, e.g., an election week, in which they aired an unusually large amount of local programs. By requiring broadcasters to list all relevant programming, the FCC can ensure that viewers receive the information that they need to evaluate their local licensee.

- b. The Disclosure Form Should Address the Needs and Interests of Disabled, Under-Served Viewers.

People for Better TV also suggests enhancements to the form. To facilitate viewing of public interest programming by individuals with disabilities, People for Better TV argues that broadcasters should list which programs have closed-captioning and video description. In addition, the standardized form should require broadcasters to certify whether they have complied with the Commission's requirements for closed-captioning and video description services.

The standardized form should also provide a place for broadcasters to indicate what foreign language translations of their programming are made available, noting as well the different languages spoken in their community. Moreover, for programming designed for under-served viewers, broadcasters should list audience demographics and indicate whom they are trying to serve.

- c. The Public Interest Disclosure Forms Should Include Information Unique to Digital Television Service, Such as Descriptions of Ancillary Services and Certification of Standard Consumer Protections.

Digital television broadcasters have the capability to provide standard digital television service, to send multiple broadcast signals (some of them scrambled and offered as pay-per-view service), to send high definition television service, and to provide datacasting services. The standardized disclosure form should fully describe all services provided by the broadcaster over the public spectrum to which they are licensed.

Finally, the standardized form should include information on the station's policies regarding the use of any information they collect from viewers about their purchase of products

through station websites or interactive programming. As stated in our NOI Comments, digital television's potential interactivity between broadcasters, advertisers and viewers will allow for the sale of goods and services over the television service as well as the collection by the local broadcaster of information from viewers about their programming and product choices. To address potential invasions of privacy and prevent targeted "overselling,"¹⁰ People for Better TV recommends that the Commission require broadcasters to certify on the standardized disclosure form that they comply with FCC or Federal Trade Commission privacy guidelines. And stations should describe how those guidelines apply to station services. With these modifications, the Advisory Commission's proposed disclosure form will be a useful tool for viewers and the Commission.

d. Public Interest Disclosure Forms Should Not Include Broadcasters' Non-Programming Community Service Activities.

People for Better TV maintains that the Commission's public interest disclosure forms should not include any references to broadcasters' non-broadcast community service activities. These charity efforts, while admirable, are irrelevant to their responsibilities to *operate their station* in a manner that serves the public interest. Non-programming community service activities are pertinent only to broadcasters' role as corporate citizens.

As UCC, et al. demonstrated in their NOI Reply Comments, many large corporations make significant charitable contributions as a matter of course. UCC et al.'s NOI Reply

¹⁰ See Appendix at C-2, CFA, p.23. See also Appendix at B-3, Lake Snell Perry, May 1999: 80 percent of voters favor FCC guidelines to protect consumer privacy, 83 percent think establishing privacy protection guidelines is important.

Comments at 32. Studies show that corporations engage in charitable giving to accrue public goodwill.¹¹ To avoid any attempts by broadcasters to overcome their failures to meet their public interest obligations by presenting evidence of non-broadcast services, indeed to avoid any resultant confusion on the part of either the broadcaster or the public that non-broadcast service is relevant, this information should not be included in any portion of the public interest disclosure form. See Separate Statement of Commissioner Gloria Tristani, and Separate Statement of Commissioner Michael K. Powell, Notice.

3. Quarterly Disclosure Forms Are Not Unduly Burdensome.

The Commission should require that broadcasters complete the disclosure forms on a quarterly basis. The forms should be filed at quarterly intervals to provide viewers with current information on licensees' actions. The posting of this information on a quarterly basis would enable viewers to raise concerns with broadcasters as they arise and have them addressed in a timely way.

While the Commission proposes altering the form, the current practice of compiling quarterly reports would stay in place, thus promoting an easier transition to a slightly different method of reporting program activity. Generating program lists should not be a burden on local broadcasters. Program logs are readily available to broadcasters, in many cases in digital form. Once broadcasters have a digital version of the disclosure form it should be a relatively simple

¹¹ See Faith Stevelman Kahn, Pandora's Box: Managerial Discretion and the Problem of Corporate Philanthropy, 44 UCLA L. REV. 579, 665 (1997). Indeed, empirical evidence demonstrates that "at least some portion of a corporation's contributions has a profit-related motive attached to it, much of it serving to improve the company's public image." Id. at n.375 citing Charles T. Clotfelter, Federal Tax Policy and Charitable Giving at 188-89 (1985).

matter of tagging information so that computer programs do the work of arranging it in the proper categories.

4. Requiring Program and Program Service Listings is Not Constitutionally Suspect.

The categorization of programming on the public interest disclosure form is a means of informing the public about the availability of programming, while providing broadcasters with credit for their efforts and should not raise any constitutional issues. A requirement to provide information about the types of programming offered is not tantamount to a requirement to air any specific program. Just as the requirement that broadcasters maintain an issues/programs list did not mandate specific programming decisions, a modification to that policy, which would provide more uniform and consistent information would not be constitutionally suspect.

If the public interest requirement mandated by Congress is to be fulfilled at all, there must be a dialogue with the public so that its interest can be determined. Indeed, if the FCC is to report to Congress on how broadcasters are satisfying their public interest obligation, compiling the information proposed is necessary for a full report.

B. The Disclosure Form and the Other Information in the Public File Should be Made Available on the Internet and Accessible to All Members of the Community of License and the Commission at License Renewal Time.

In our NOI Comments, People for Better TV demonstrated the need for prompt Commission action by documenting in detail the problems our members encountered when they tried to access broadcasters' public files. NOI Comments at 27-30. On numerous occasions, station employees blocked individuals from viewing the broadcasters' files. Id. at 27-28. The experience of People for Better TV members over the past few weeks confirms our earlier

problems. PBTv members have been harassed,¹² treated as security risks,¹³ and asked to make an appointment only to return at the scheduled time to find the person not available.¹⁴ In addition to this discouraging (perhaps intentionally?) treatment of citizens wishing to view the public files, researchers also noted that the information that should be in the file was reportedly in different places at the station and under the charge of different people. At KYW in Philadelphia, for example, political ad information, FCC applications and other standard forms were kept separately from all programming information.¹⁵ At WMAQ in Chicago, researchers were told there was “an abundance of emails from the public about their programs, that emails from the public are kept on a disk, but that they did not know the location of the disk.”¹⁶

Any change to station report forms would be for nothing if that change is not accompanied by requirements to make the information more easily accessible to the public.

1. All Information in the Public File Should be Kept Together and Put on Accessible Websites.

As we indicated in our NOI, viewing the public file can be a significant burden of time on citizens, not to mention an unnecessarily emotional drain. If citizens are to assist the Commission in monitoring the actions of local stations, it is important to keep public files in one place and readily available. In addition, while not all citizens have access to the Internet, it would be much easier for many who do have access to be able to review the files on the station's website.

¹² See Campbell and Torres Letters, Appendix - B2.

¹³ See Grieco/Wyman Letter, Appendix - B1.

¹⁴ See Philadelphia PBTv Letter, Appendix - B4.

¹⁵ See Philadelphia PBTv Letter, Appendix - B4.

¹⁶ See Djordjevic Letter, Appendix - B2.

Small stations without the resources to maintain their own website could work with state broadcasting associations to post their forms on the Internet. Almost every state broadcasting association has a website; these websites are easy to locate; and the public interest disclosure form provides information similar to the current offerings on these sites.¹⁷

2. Information in the Public File Should be Made as Widely Available as Possible to All Citizens Regardless of Disability.

People for Better TV also maintains that the files should be sent to the FCC and made available to viewers through the FCC's website in a manner consistent with the way the children's forms are made available. Such an approach would facilitate viewer access because citizens could look at both forms on the same site.

To ensure that viewers know that this public interest programming is available, People for Better TV supports the suggestions of other NOI Commenters that the Commission require broadcasters to air information about the disclosure forms and how to access them. Notice at ¶34. Furthermore, this same information should be made available in print and electronic programming guides. Id.

In addition, information on how to access the disclosure forms and the print and electronic versions of the disclosure forms themselves should be made accessible to people with disabilities. Notice at ¶32. Individuals with disabilities comprise an important segment of each

¹⁷ All but five of the state broadcasting associations maintain websites which include database listings of their member stations' contact information, and in many cases provide hyperlinks to the websites of those member stations. These contact listings could be expanded to include the stations' public record information. The expansion of these listings into larger databases is a reasonable expectation given the presence on the state broadcasting association sites of other extensive content databases and frequently changing bulletins such as Job Banks, Legal Updates, and Convention postings. Finally, the fact that the state broadcasting associations typically post only the information of their member stations should not be a concern, because membership is neither a complicated nor expensive obligation.

community and need to know how the broadcasters are meeting local needs. Still, some public files are not readily accessible to those in wheelchairs. As Dorothy Garrick of South Carolina reports on her visit to WOLO-TV 25, “The file is located up several stairs, not handicap accessible.”¹⁸ Providing information on the Internet would benefit these viewers. Station websites should also be accessible to those with sight and hearing disabilities, ensuring that the information concerning closed-captioning and video description reach their desired audience.

Again, it would make little sense for the Commission to establish reporting requirements without clarifying the goal of making the reports fully accessible to the community of license.

3. The FCC Should Consider the Public Interest Disclosure Form During License Renewal Review.

In addition to making the public interest disclosure form available to the public, broadcasters should be required to provide copies of the form to the Commission so that it can be considered at renewal time. Only by being informed of these efforts can the Commission assess whether the broadcaster is operating in the public interest convenience and necessity. 47 U.S.C. § 309 (a). While the Commission relies to some extent on public monitoring of licensees, the Commission itself has the ultimate responsibility for evaluating licensees. The Commission should consider this critical information about broadcasters’ service to their communities as part of their review. Indeed, as Commissioner Tristani notes, “[I]f the information contained in the programming reports is not reviewed at the time of license renewal, the public interest cannot be completely protected.” Separate Statement of Commissioner Gloria Tristani., Notice.

¹⁸ See Garrick Letter, Appendix - B3.

C. Local Digital Television Broadcasters Should be Required to Determine the Programming Needs and Interests of the Community They Are Licensed to Serve.

The experience of People for Better TV members noted earlier demonstrates that some broadcasters view their community merely as a draw for advertisers, rather than as a community in reliance upon a “public trustee” which provides important civic information and a window into the wider world. We call upon the Commission to clarify that broadcasters have a duty to determine the needs and interests of the community they are privileged to serve.

1. The Requirement to Perform an Ascertainment Has Not Been Eliminated.

Upon eliminating the “ascertainment requirements” in 1984, the Fowler Commission noted that “in all future proceedings, the focus of our inquiry shall be upon the responsiveness of a licensee’s programming.”¹⁹ Presumably, the broadcaster remained responsive to the needs and interests of its community as determined, according to that Commission, by promised, though unspecified ascertainment, such as “town meetings and other community activities.”²⁰ We agree with the comments of the U.S. Catholic Conference that the repeal of formal ascertainment requirements did not relieve broadcast licensees of determining the needs and interests of the community of license and responding to that determination.²¹ Regarding ascertainment, People for Better TV seeks two decisions only: 1) that the Commission clarify that local digital broadcasters are required to determine the needs and interests of the community they are licensed to serve, and 2) that broadcasters report quarterly to that community and the Commission what

¹⁹ Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, 98 FCC 2d 1076, 1116; 49 FR 33588, 33597 (1984), hereinafter: “Revision of Programming”.

²⁰ Id.

²¹ USCC NOI Comments at 3.

they do to determine those needs and interests and what they have found.

2. The Requirement to Determine Community Needs is Not the Same as the “Ascertainment Requirements” Eliminated by the Commission.

The appropriately vague requirement that broadcasters determine the public interest they are required to serve, is significantly different from the burdensome ascertainment requirements in place for a few short years (1971 - 1984).²² We are not asking for a return of community leader checklists. We are not asking for formal consults with community leaders. We are not asking for regulations regarding where ascertainment interviews are conducted. If it is true that 75 percent of broadcasters consult with local leaders,²³ we would simply like for them (and the other 25 percent) to put that information in their public files so the public will know that their local leaders have been consulted. People for Better TV has been joined by local leaders around the country who have not been consulted, who would very much like to be consulted, and who would be proud for members of their community to know that the local TV station considers them worthy of consulting.

While we do not propose it as a requirement, we refer again to new communications technologies available which should considerably lighten the burden of communicating with local leaders.²⁴ In addition, the use of these technologies will make the efforts of broadcasters to stay in touch with communities more transparent to the public.

²² Primer on Ascertainment of Community Problems by Broadcast Applicants, Report and Order, 27 FCC 2d 650 (1971).

²³ See NAB NOI Comments at 26, n. 49.

²⁴ See NOI Comments at 26.

3. A Simple Cost/Benefit Analysis is Not Entirely Appropriate, but the Benefits Clearly Outweigh the Costs.

The Commission seeks comments on the benefits and burdens of these proposals.

Though some may argue that such an analysis is required and useful, People for Better TV argues that like other areas of reform regulation, a simple cost/benefit analysis distorts the core concerns here.²⁵ As has been argued many times before the Commission,²⁶ a simple cost/benefit analysis while instructive perhaps regarding the construction of transmission towers is not appropriate to determinations of the democratic relationship (which is, at core, what the proposed dialogue is meant to secure) between a federal licensee and the community that licensee is required to serve.²⁷

People for Better TV is convinced that broadcasters will supply ample evidence of their burdens, or costs. Except for a notable few, we anticipate that many broadcasters will make the unsupportable, indeed contradictory argument that they need not be required to perform ascertainments, because they are so beneficial they will go out of business if they do not perform them. We think the benefits of communicating more effectively with the local community to the broadcaster are clearly evident in the lengths the NAB would go to demonstrate the public service offered by broadcasters, presumably conceived in dialogue with their communities. If it

²⁵ Cost benefit analysis was a frequent tool of policy makers in the Reagan Administration to eliminate regulation or at least create paralysis and confusion about the appropriateness of regulatory reform. It's most obvious failures have been in environmental and occupational health and safety policy, but the Fowler FCC policies are further examples of the limitations of this tool. See David Vladeck and Thomas McGarity, Paralysis By Analysis, *The American Prospect* no. 22, Summer 1995. (visited at December 11, 2000) <http://www.prospect.org/archives/22/22vlad.html>.

²⁶ Revision of Programming at 49 FR 33609.

²⁷ See generally, Andrew Graham, Broadcasting Policy in the Digital Age. Evidence to the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (Submitted to the Public Interest Advisory Committee), July 1998.

is true that the better a broadcaster knows his community of license, the better position they will be in to respond to the needs and interest of that market, it must follow that knowing a community is a substantial benefit. Moreover, People for Better TV contends that the broadcast licensee cannot claim to operate in the local public interest, as this Commission intends and Congress mandates, without a genuine and dynamic dialogue with the local public. Thus, the broadcaster benefits by earning, and demonstrating to the public that he has earned his valuable broadcast license. Finally, the 75 percent of broadcasters who conduct a dialogue with their community benefit by the assurance that other broadcasters in the community are not getting a free ride and actually deserve to operate as a public trustee.

The benefits to the public are multiple and, as with most extraordinarily valuable things, not easy to put a price on. This dialogue benefits the public because it tells them that their concerns are important enough to be sought out. The dialogue may benefit the public because a station was alerted to a preventable problem as a result and decided to air a series devoted to the issue, such as the recent rise in tuberculosis. The dialogue and subsequent communication may save a life. There are formulas for benefits such as saving a life, but does anyone believe them?

The most important benefit to the Commission is an informed citizenry. A citizenry which understands its role as monitor is able to assist in the regulation of the local broadcast licensee. Finally, there is the benefit of establishing the necessary underpinning of a regulatory scheme which is not a clear fraud pretending to protect the public interest.

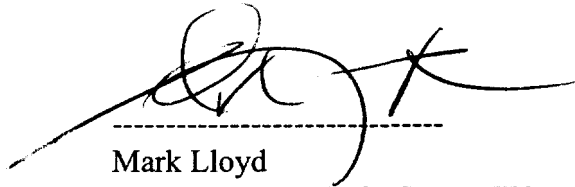
III. CONCLUSION

As we did in response to the NOI, People for Better TV communicated with thousands of citizens across the country in preparation for this NPRM. Many of these citizens were surprised to hear that their local broadcaster had any obligation to operate in the public interest of their community, or that they had a right to view the broadcaster's public file. We urged them to view the documents on the Commission's website, and encouraged them to monitor and visit their local stations. We found many stations which did provide easy and courteous access to their files, and we found files which were orderly and timely kept. And, as stated in these Comments and in the NOI Comments, we also found station personnel who themselves were under the impression that de-regulation severed any obligation they had to their community, aside from serving that community up to advertisers.

People for Better TV commends the Commission for its proposed rules in this proceeding, and urges immediate adoption of a clear, informative public interest disclosure form for all broadcasters. We strongly support the proposed requirement to make public information more easily accessible. And we ask for the clarification that the existing requirement to ascertain community needs and interests apply to digital broadcasters. These are small but necessary first steps toward ensuring that all television broadcast licensees are actually operating in the public interest.

We also repeat our request for a rulemaking proceeding to establish a minimum level of local programming to serve the local public interest. The nation's local communities will be the poorer if all that is achieved in this historic transition to digital television service is the regular reporting of the broadcast licensees' failure to serve the local public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Mark Lloyd', written over a horizontal dashed line.

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